

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR AND ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE SERVICES**

**Before the Commissioner of Financial and Insurance Services**

**In the matter of**

**XXXXX**

**Petitioner**

**File No. 86255-001**

**v**

**Physicians Health Plan of Mid-Michigan  
Respondent**

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**Issued and entered  
this 17<sup>th</sup> day of December 2007  
by Ken Ross  
Acting Commissioner**

**ORDER**

**I  
PROCEDURAL BACKGROUND**

On November 8, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* After a preliminary review of the material submitted, the Commissioner accepted the request on November 15, 2007.

This case required an analysis by a health care professional so the Commissioner assigned it to an independent review organization (IRO) which submitted its recommendation on December 3, 2007.

**II  
FACTUAL BACKGROUND**

The Petitioner is a member of Physicians Health Plan of Mid-Michigan (PHP) and her health benefits are defined in PHP's certificate of coverage (the certificate).

In March 2007 the Petitioner, through her plastic surgeon, requested coverage for excisional scar revision surgery with flap closure (procedure codes 14300, 12034, and 12032). PHP denied the request. The Petitioner appealed and exhausted PHP's internal grievance process. PHP maintained its denial and sent a final adverse determination letter dated October 25, 2007.

### **III ISSUE**

Did PHP properly deny the Petitioner coverage for scar revision surgery as cosmetic surgery that is excluded under the terms of the certificate?

### **IV ANALYSIS**

#### **PETITIONER'S ARGUMENT**

The Petitioner says that because of multiple surgeries from March 2003 through April 2004 due to Crohn's disease, she is left with scars on her abdomen. The scars are irritated by her clothes, and when they are irritated she cannot sit comfortably, wear pants or hose, or wear shorts and skirts that fasten at or near her belly button. In addition, she says the scars sometimes form rashes, often swell, and become red and bleed. As a result, she says she cannot sit at her job and is in constant pain.

Her plastic surgeon recommended scar revision surgery, noting that the Petitioner

is having tenderness associated with a multitude of abdominal scars following Crohn's disease surgery, including periumbilical midline right and left lower quadrants. \* \* \* One approach would include revision of the scars directly or in combination with a limited abdominoplasty approach to remove the lower third of the scars with a portion of redundant soft issue.

The Petitioner argues that the scar revision surgery is medically necessary and she wants PHP to cover it.

## PHP'S ARGUMENT

In its final adverse determination letter to the Petitioner, PHP denied coverage for the abdominal scar revision surgery, saying, "The original decision to deny your request was upheld because the scar revision is considered a cosmetic [*sic*]. Cosmetic procedures are specifically excluded." PHP cited provisions in Sections 2 and 10 of the certificate.

PHP believes it properly denied the Petitioner's request for coverage.

## COMMISSIONER'S REVIEW

The issue in this case is whether the proposed scar revision surgery is covered under the terms of the PHP certificate. Cosmetic surgery is excluded in the certificate. PHP argues that the Petitioner's surgery is cosmetic and is therefore excluded. PHP cites this exclusion in Section 2 of the certificate:

### **J. Physical Appearance**

1. Cosmetic Procedures. See the definition in Section 10: Glossary of Defined Terms. Examples include:

\* \* \*

- Scar or tattoo removal or revision procedures (such as salabrasion, chemosurgery and other such skin abrasion procedures).
- Skin abrasion procedures performed as a treatment for acne.
- Plastic surgery.

The term "cosmetic procedures" is defined in Section 10 of the certificate:

**Cosmetic Procedures** - procedures or services that change or improve appearance without significantly improving physiological function, as determined by us.

The Petitioner has argued that the surgery she is requesting is not cosmetic in nature. She says she is experiencing pain, soreness, and bleeding in the areas of her past surgeries and the scar revision surgery should be covered as part of her health care benefits. To resolve this issue, the Commissioner asked for the recommendation of an IRO.

The IRO reviewer is practicing physician who is board certified in plastic surgery and holds an academic appointment. The IRO reviewer examined the medical records submitted and concluded that scar revision and flap closure is not medically necessary.

The IRO report explained:

The MAXIMUS physician consultant indicated that there is no evidence that the [Petitioner] has been treated by her primary care physician or a dermatologist for her scars. The MAXIMUS physician consultant also indicated there is no evidence of a diagnosis of the etiology of these painful scars. The MAXIMUS physician consultant explained that conservative treatment should be tried for a reasonable period of time before surgical treatment is considered.

Pursuant to the information set forth above and available documentation, the MAXIMUS physician consultant determined that scar revision with flap closure is not medically necessary for the treatment of the [Petitioner's] condition.

The Commissioner is not required in all instances to accept the IRO's conclusion. However, the IRO recommendation is afforded deference by the Commissioner. The IRO analysis here is based on extensive experience and professional judgment and the Commissioner can discern no reason why the IRO report should be rejected in this case.

Therefore, the Commissioner accepts the IRO conclusion and finds that the surgery requested by the Petitioner is not medically necessary (i.e., it is cosmetic) and is excluded under the terms and conditions of her coverage with PHP.

## **V ORDER**

The Commissioner upholds PHP's October 25, 2007, final adverse determination. PHP is not responsible for coverage of the requested surgery under the terms of the PHP certificate.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner

of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220,  
Lansing, MI 48909-7720.